

## CHAPTER 08 BUSINESS REGULATIONS

### ARTICLE 8-9. OFF TRACK BETTING

#### Sec. 8-9-1. Definitions in General

The definitions in A.R.S. tit. 9 (A.R.S. § 9-101 et seq.) shall be applicable to this Article unless a term is specifically defined in this Article, or unless the context requires otherwise.

#### Sec. 8-9-2. Definitions Pertaining to this Article

For the purposes of interpretation of this Article, the following words and phrases shall mean:

(a) *Additional Wagering Facility* – A facility which is not the enclosure in which authorized racing takes place but which meets the requirements of Arizona Revised Statutes Section 5-111, Subsection (A) and is used by an Arizona racetrack permittee for handling Pari-Mutuel Wagering.

(b) *Applicant* – A Person who applies for an Off Track Betting Establishment License.

(c) *Application* - An application for an Off Track Betting Establishment License. The Application shall contain the full name of the Applicant, the Applicant's residential and business addresses and telephone numbers, the name of the business for which the License is sought and any additional information the City deems necessary.

(d) *Control* – The power to direct or cause the direction of the management and policies of an Applicant, Licensee or Controlling Person, whether through the ownership of voting securities or a partnership interest, or by agreement or otherwise. Control is presumed to exist if a Person has the direct or indirect ownership of or power to vote ten percent (10%) or more of the outstanding voting securities of the Applicant, Licensee or Controlling Person or to control in any manner the election of one or more of the directors of the Applicant, Licensee or Controlling Person. For the purposes of determining the percentage of voting securities owned, controlled or held by a Person, the voting securities of any other Person directly or indirectly controlling, controlled by or under common control with the other Person, or by an officer, partner, employee or agent of the Person or by a spouse, parent or child of the Person shall be included. Control is also presumed to exist if a creditor of the Applicant, Licensee or Controlling Person holds a beneficial interest in fifty percent (50%) or more of the liabilities of the Licensee or Controlling Person.

(e) *Controlling Person* – A Person directly or indirectly possessing Control of an Applicant or Licensee.

(f) *Dog Racing* – Racing in which Greyhound dogs chase a mechanical lure.

(g) *Harness Racing* – Horse Racing in which the horses are harnessed to a sulky, carriage or similar vehicle and driven by a driver.

(h) *Horse Racing* - Racing in which horses are mounted and ridden by jockeys. For purposes of county fair racing meetings, "Horse Racing" means racing in which horses or mules are mounted and ridden by jockeys.

- (i) *Licensee* – Any Person to whom the City has issued a License under this Article or any Person acting on behalf of such Person.
- (j) *Licensing Office* - The Finance Department for the City of Maricopa or other department as designated by the City Manager.
- (k) *Minor Traffic Violation* - A conviction or finding of responsibility not to include the following, which shall be considered serious traffic violations: excessive speeding involving a single offense for a speed of fifteen miles per hour or more above the posted speed limit; reckless driving as provided by A.R.S. §§28-693; aggressive driving as provided by Section A.R.S. §§28-695; racing as defined in A.R.S. §§28-708; improper or erratic traffic lane changes as provided by A.R.S. §§28-729; following the vehicle ahead too closely as provided by A.R.S. §§28-730; a violation that is connected with a fatal traffic accident; driving a motor vehicle if the person has not been issued a valid driver license; driving a motor vehicle without a driver license in the person's possession; driving a motor vehicle without having a valid endorsement for the type of motor vehicle or motor vehicle combination being operated.
- (l) *Off Track Betting Establishment* - An Additional Wagering Facility which simulcasts Horse, Harness or Dog Racing events for the purpose of Pari-Mutuel Wagering that is operated as an accessory use to an eating and drinking establishment and is authorized by issuance of a Teletrack Wagering Permit in accordance with Arizona Revised Statutes Section 5-112 and Arizona Administrative Code Title 19, Chapter 2, Article 4.
- (m) *Off Track Betting Establishment License or License* - Authorization issued by the City or other appropriate governmental authority to any Person to operate an Off Track Betting Establishment.
- (n) *Pari-Mutuel Wagering* - A system of betting which provides for the distribution among the winning patrons of at least the total amount wagered less the amount withheld under Arizona Revised Statutes Section 5-111.
- (o) *Person* – Any individual, partnership, limited partnership, firm, corporation, association, or any other group acting as a unit.
- (p) *Racing Program* - Live races conducted at an authorized track, approved dark-day simulcasts and any simulcast races shown to the public in conjunction with live racing on which Pari-Mutuel Wagering is allowed.
- (q) *Teletracking* - Telecast of live audio and visual signals of live or simulcast horse, mule, or Greyhound Racing Programs conducted at an authorized enclosure within Arizona to an authorized Additional Wagering Facility within Arizona, by an Arizona racetrack permittee for the purpose of Pari-Mutuel Wagering.
- (r) *Teletrack Facility* - An Additional Wagering Facility owned or leased by an Arizona racetrack permittee which is used for handling legal wagers.
- (s) *Teletrack Wagering* - Pari-Mutuel Wagering conducted at a Teletrack Facility within Arizona on a Racing Program which is conducted at an authorized track within Arizona.
- (t) *Teletrack Wagering Permit* - Permit issued by the Arizona Racing Commission authorizing an Arizona racetrack permittee to telecast a Racing Program to single or multiple Teletrack Wagering Facilities within the state of Arizona for the purpose of Pari-Mutuel Wagering.

**Sec. 8-9-3. Applicability; Provisions Cumulative**

(a) The provisions of this Article shall apply to all Off Track Betting Establishments and Persons as defined herein.

(b) The provisions of this Article shall be in addition to any other regulations, privilege or license taxes or permit requirements required by the City, the state or other applicable agency and cumulative to any other applicable regulations, procedures or penalties.

**Sec. 8-9-4. License Application; Fee; Timeline**

(a) Any Person desiring to obtain an Off Track Betting Establishment License must apply to the Licensing Office. Each Application must be accompanied by all required application fees.

(b) Upon approval, and prior to issuance of the Off Track Betting Establishment License, the Applicant must pay all required License fees.

(c) An Application will be granted or denied within the schedule of administrative and substantive review timeframes, as established by the Licensing Office.

(d) Fees are not prorated, transferable or refundable unless otherwise provided by law.

**Sec. 8-9-5. Off Track Betting Establishment License Required**

(a) It is unlawful for any Person to conduct business or operate as an Off Track Betting Establishment in the City without first obtaining and maintaining in effect a current, unrevoked and unsuspended Off Track Betting Establishment License as required by this Article.

(b) It is unlawful for any Person licensed as provided in this Article to operate under any name or conduct business under any designation not specified in the License.

(c) It is unlawful for any Person licensed as provided in this Article to conduct business at any location not specified on such License.

(d) The License required by this Article is in addition to any other licenses or permits required by any governmental authority necessary to lawfully conduct business.

**Sec. 8-9-6. Off Track Betting Establishment License Application; Contents**

(a) Each Application for an Off Track Betting Establishment License shall include a description of the proposed business activity. Such description shall include, but not be limited to, the following information. Paragraphs (1) through (9) below are required to be completed about the applicant, the business owner, the Licensee if not the applicant or the business owner, the agent responsible for managing the premises on a day to day basis (hereinafter “managing agent”) and any Controlling Person as defined herein:

(1) Full legal name and any name by which the Person is or has been known;

(2) Current home address and telephone number and addresses over the past five (5) years;

(3) Driver’s license number or other government-issued, federally recognized identification;

(4) Birth date, height, weight, hair and eye color;

- (5) Business occupation and employment history for five (5) years;
- (6) License history, including issuance, revocation, suspension or termination of any current or past Off Track Betting Establishment Licenses;
- (7) The prospective Licensee shall submit to a fingerprinting process as directed by the Licensing Office for the purpose of obtaining a state or federal, or both, criminal records check pursuant to A.R.S. § 41-1750 and Public Law (PL) 92-544. The Department of Public Safety is authorized to exchange this fingerprint data with the Federal Bureau of Investigation. Fingerprints must be submitted on fingerprint cards provided by the Licensing Office or designee.
- (8) Listing of any prior felony or misdemeanor convictions except Minor Traffic Violations;
- (9) Documentation of age over eighteen (18) years;
- (10) Designation of the managing agent who will be managing or operating the Off Track Betting Establishment at the indicated location and proof of the managing agent's authorization to act on behalf of the prospective Licensee;
- (11) Name, address and telephone number of any other local agent authorized to conduct daily business and proof of authority to act on behalf of the prospective Licensee;
- (12) Name, address and telephone number of statutory agent in Arizona if a corporation or an out-of-state applicant, Licensee or owner;
- (13) Except for corporations listed on the major stock exchanges, the names and addresses of all Persons financially interested in the business. If a Person financially interested in the business of the prospective Licensee is a corporation, the names and addresses of all Persons financially interested in that corporation shall be provided;
- (14) The names and addresses of any Controlling Persons as defined herein. If the Controlling Person is a corporation, the names and addresses of all Persons having Control of the controlling corporation shall be provided;
- (15) Evidence of current, valid conditional use permit or any other applicable zoning approval for the proposed activity issued by the City;
- (16) Information on the eating and drinking establishment that is the proposed location for which off track betting will be an accessory use: physical address, name of primary business at proposed location, and name and telephone number of representative of proposed location;
- (17) Proof the Applicant holds a valid permit from the Arizona Racing Commission to conduct pari-mutuel races within the state of Arizona;
- (18) Accurate drawings to scale indicating the floor plan of the proposed location for which off track betting will be an accessory use that include the precise location of all off track betting facilities and activities;
- (19) Copy of the plan of operation submitted to the Arizona Racing Commission, in accordance with the specifications of Arizona Administrative Code Section R19-2-404; and
- (20) Such other information as may be requested by the Licensing Office to determine the truth of the information required to be set forth above.

(b) Any change in ownership of the business or in the information required to be provided in paragraphs (1), (10), (11), (12), (13), (18), or (19) above shall be reported to the Licensing Office within ten (10) calendar days after the change. Such changes shall be subject to investigation and approval by the City as provided in Subsection (d) set forth below and, if disapproved, the disapproval shall be grounds for termination of the License as provided in Section 8-9-14 of this code. The requirement for reporting changes as required herein is effective at all times during the City's consideration of the Application and at all times when a License issued hereunder is in effect. All information set forth above in paragraphs (1) through (20) must be updated at the time of the renewal of the License.

(c) Altering the services offered, the site plan, number of pari-mutuel windows or machines, or type of racing conducted without written approval from the Licensing Office is unlawful.

(d) The Police Department shall conduct an investigation of the Application and background of the Applicant and proposed Licensee. Based on such investigation, the Police Department shall recommend to the Licensing Office the approval or denial of the License. In addition, the development services department and fire department, and any other affected department, may inspect any premises proposed as the site of the establishment and may make separate recommendations to the Licensing Office concerning compliance with the provisions of this Article and any other applicable codes.

#### **Sec. 8-9-7. Location of Off Track Betting Establishment**

Refer to the City of Maricopa Zoning Code for location requirements. An Off Track Betting Establishment License will not be issued for any location not permitted in the City of Maricopa Zoning Code.

#### **Sec. 8-9-8. Payment of Fees and Taxes**

An Application for an Off Track Betting Establishment license will not be processed or renewed if the Applicant is delinquent in payment of any City taxes, fees, renewals or other City payments due in accordance with Section 8-1-3 of this Code.

#### **Sec. 8-9-9. Fees**

(a) An Application for an Off Track Betting Establishment License must be accompanied by all fees required by this Chapter or by any other applicable laws, rules or regulations.

(b) In order for an Application to be administratively complete, all fees must have been submitted.

(c) Submission of the annual renewal form must include the annual fee before it will be processed.

(d) Fees are not prorated, transferable or refundable unless otherwise provided by law.

#### **Sec. 8-9-10. Term of License**

The Off Track Betting Establishment License, issued pursuant to the provisions of this Article, shall be valid only during the calendar year in which it is issued. Any license may be

renewed by filing a renewal application for approval and paying the renewal fee before the first day of the year in which the Applicant wishes to be licensed.

**Sec. 8-9-11. Public Hearing on Off Track Betting Establishment License; Notice**

Refer to the City of Maricopa Zoning Code for requirements.

**Sec. 8-9-12. Inspection of Premises, Property and Records**

To ensure compliance with this Article and other applicable laws, the business premises of any Person required to be licensed under this Article, including any property on the premises related to the Off Track Betting Establishment, must be open to inspection by representatives of the City upon request at any time during the Licensee's regular business hours, or reasonable hours as agreed upon by the Licensee and the City.

**Sec. 8-9-13. Grounds for Denial**

The following include, but are not limited to, grounds for denial of an Application for an Off Track Betting Establishment License:

- (a) The Applicant, or proposed conduct of the Off Track Betting Establishment, fails to meet the requirements of this Article or any other applicable provision of this Code or law;
- (b) The Applicant is a corporation which is not qualified to transact business in the state;
- (c) Misrepresentations or material misstatements are made in the Application;
- (d) Harm to the public health, safety or welfare of the community, or clear or present danger of serious damage or danger to the public, would result from granting the License; or
- (e) A business owner, or a managing agent, an applicant, other managing employee or a Controlling Person in the business to be licensed has been convicted of:
  - (1) A felony; or
  - (2) A misdemeanor which relates to the activity to be licensed,

or has, within two (2) years preceding the date of the issuance of a License, violated any of the provisions of this Article or the Maricopa City Code while conducting an Off Track Betting Establishment.

**Sec. 8-9-14. Grounds for Revocation, Suspension, or Non-Renewal of License**

- (a) In addition to the automatic termination of a License as provided in this Article, the License may be revoked, suspended or denied renewal for any one or more of the following grounds:
  - (1) Revocation or suspension of a state permit from the Arizona Racing Commission to conduct pari-mutuel races within the state of Arizona;
  - (2) Failure to maintain a current Arizona Teletrack Wagering permit;
  - (3) Violation of the laws governing wagering within the state of Arizona, in accordance with Arizona Administrative Code Title 19, Chapter 2;

- (4) False or misleading testimony by the Licensee in an investigation or other proceeding related to wagering;
- (5) The Licensee has violated the requirements of this Article or any other applicable provision of this Code or law;
- (6) The Licensee has been convicted of fraud in conducting the business or was deceitful in obtaining a license to conduct the business;
- (7) The Licensee has been convicted in a court of competent jurisdiction of a felony or of any misdemeanor which relates to the licensed activity;
- (8) The Licensee is grossly ignorant or willfully negligent in the business of the Off Track Betting Establishment;
- (9) There occurs on the premises repeated acts of violence or disorderly conduct;
- (10) The Licensee or any employee or managing agent thereof fails or refuses to make the premises or records available for inspections and examination as provided in this Article;
- (11) The Licensee knowingly files an Application or other document with material information which is false or misleading or knowingly gives testimony in an investigation or other proceeding which is false or misleading;
- (12) The Licensee is delinquent for more than thirty (30) days in the payment of any applicable taxes or fees payable to the City following formal notice of delinquency; or
- (13) Any completion of non-permitted improvements or increase in the number of pari-mutuel windows or machines, or change in the type of racing conducted occurs without appropriate approvals from the City.

(b) Upon discovery of a violation, the provisions of Section 8-1-10 of this Chapter shall go into effect.

#### **Sec. 8-9-15. Appeals**

Any Person aggrieved by the denial of an Application for License or by the restrictions placed upon the License or by the suspension or revocation of such License, and who is not satisfied with the decision of the City Manager or designee, shall have the right to an appeal before the City Council in accordance with Section 8-1-11 of this Chapter.

#### **Sec. 8-9-16. Application after Denial or Termination**

No person may apply for an Off Track Betting Establishment License within one (1) year from:

- (a) The denial of any such License to the Applicant; or
- (b) The suspension, revocation, termination or non-renewal of such License unless the cause of the denial, suspension, termination, revocation or nonrenewal has been, to the satisfaction of the Licensing Office, removed in such time.

#### **Sec. 8-9-17. Display of License**

A Licensee shall display such License in a conspicuous place in the Off Track Betting Establishment.

**Sec. 8-9-18. Transferability; Automatic Termination of License**

- (a) Licenses issued hereunder are not transferable.
- (b) The following shall result in automatic termination of an Off Track Betting Establishment License:
  - (1) Any change in location of a licensed Off Track Betting Establishment;
  - (2) Upon the sale or transfer of more than fifty percent (50%) of the stock or ownership of the Off Track Betting Establishment; or
  - (3) Upon the revocation or termination of any use permit or other zoning approval issued by the City relating to the Off Track Betting Establishment.
- (c) A new application may be made by the Person whose License is terminated as provided in this Section, or by another Person desiring to own or operate an Off Track Betting Establishment.

**Sec. 8-9-19. Special Operating Requirements for Off Track Betting Establishments**

It is unlawful for any Person to engage in, conduct, or carry on, or permit to be engaged in, conducted, or carried on, in or upon any premises within the City, the business of an Off Track Betting Establishment except in compliance with all of the following requirements:

- (a) Any person employed by an Off Track Betting Establishment in the City of Maricopa must be at least eighteen (18) years of age.
- (b) A Licensee will not knowingly allow a person who is under twenty one (21) years of age to be a patron of the pari-mutuel system of wagering.
- (c) The Licensee of the Off Track Betting Establishment must take all reasonable measures, including but not limited to requiring identification from persons placing bets or wagers at an Off Track Betting Establishment, to prevent unlawful gambling by anyone under the age of twenty one (21) years of age.
- (d) Teletrack wagering may be conducted only between the hours of 7:00 A.M. and 12:00 A.M.
- (e) It is unlawful for an Off Track Betting Establishment to receive a simulcast race from an unlicensed teletrack operator.

**Sec. 8-9-20. Penalty**

- (a) A violation of this Article is an offense, punishable as provided in Article 1-8 of this Code. Each day on which a violation continues shall be a separate offense.
- (b) In addition to the penalties provided for in this Section, a violation of this Article is grounds for revocation of a business license as provided in Section 8-9-14 of this Article.